

EXHIBIT 10
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,)
)
Plaintiff,)
vs.) Case No.
) 17-cv-00939-WHA
UBER TECHNOLOGIES, INC.;)
OTTOMOTTO, LLC; OTTO TRUCKING LLC,)
)
Defendants.)
_____)

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VIDEOTAPED 30(b)(6) DEPOSITION of WAYMO LLC
by and through its Designated Representative
ASLAN (SHAWN) BANANZADEH
San Francisco, California
Thursday, August 24, 2017
Volume I

Reported by:
MARY J. GOFF
CSR No. 13427
Job No. 2688513

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UBER TECHNOLOGIES, INC.;)
OTTOMOTTO, LLC; OTTO TRUCKING LLC,)
)
Defendants.)

Highly Confidential Videotaped Deposition of
ASLAN (SHAWN) BANANZADEH, Volume I, taken on behalf
of Plaintiff Waymo LLC, at Morrison & Foerster LLP,
425 Market Street, 33rd Floor, San Francisco,
California, 94105, beginning at 9:54 a.m. and ending
at 5:53 p.m., on August 24, 2017, before MARY GOFF,
Certified Shorthand Reporter No. 13427.

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1 Did you help prepare that [REDACTED] 12:49:24

2 range number for Trade Secret 2? 12:49:28

3 MR. MACK: Objection, form. 12:49:30

4 A So -- so -- so again, insofar as that 12:49:34

5 number is derived from the numbers that you see of, 12:49:37

6 like, the historical spend at Waymo, to the extent 12:49:39

7 it incorporates those numbers, I would say yes. 12:49:44

8 Q (BY MS. CHANG) Do you know how that 12:49:48

9 [REDACTED] number was calculated? 12:49:54

10 A So my understanding is that -- and this 12:49:59

11 is, I believe, a -- a formulation based on the 12:50:04

12 expert's calculations. But what -- what it is is a 12:50:08

13 summation -- am I allowed to alter this just so I 12:50:12

14 can read it easier? Can I make it into dollars? 12:50:19

15 No? 12:50:23

16 Q Yes, we -- yes, we can, but I think we 12:50:24

17 would then need to mark it as new exhibit, so -- 12:50:25

18 A Okay. 12:50:28

19 Q -- what we'll do is we'll mark this as 12:50:28

20 Exhibit 2091. 12:50:31

21 A It -- it's okay. I don't -- I won't 12:50:36

22 change it, just to keep it -- sorry. 12:50:37

23 Q Are you sure? 12:50:39

24 A Yeah. Yeah. 12:50:40

25 Q Okay. 12:50:41

1 A Sorry about that. So my understanding is 12:50:41
2 that because of the nature of the development of the 12:50:48
3 program as a whole, right, what it was is a -- kind 12:50:54
4 of a calculation of historical spend through the end 12:50:57
5 of 2015. 12:51:00

6 So if -- on the screen you can see that 12:51:02
7 essentially I'm -- I'm highlighting all the cells in 12:51:04
8 Row 16, Columns B through H. 12:51:08

9 And in the bottom corner, Excel does a 12:51:12
10 sum. So what that sum is saying is that this is 12:51:15
11 approximately \$ [REDACTED] 12:51:17

12 Q For the record, the exact sum that is 12:51:40
13 shown in Exhibit 1400 when you highlight Cells B16 12:51:47
14 to H16, is -- 12:51:52

15 A Do you want me to read it out? 12:52:00

16 Q -- you can read it out. Or I was going 12:52:02
17 to, but you can. 12:52:04

18 A Oh, I'm sorry. I'm sorry. Okay. 12:52:05

19 Q It is [REDACTED] is that right? 12:52:07

20 A Yes, that's what the screen shows. 12:52:20

21 Q And that's the number that is the basis 12:52:23
22 for the [REDACTED] range that's shown as the 12:52:26
23 development cost for Trade Secret 2? 12:52:33

24 MR. MACK: Objection, form. 12:52:37

25 A That's -- that's my understanding of how 12:52:37

1 it was formulated. 12:52:39

2 Q (BY MS. CHANG) Do you know what Trade 12:52:41

3 Secret 2 is? 12:52:42

4 A Like -- like, in technical detail, no. 12:52:46

5 Q In any level of detail? 12:52:50

6 MR. MACK: Objection, form. 12:52:52

7 A I -- I know that it's at issue in the 12:52:57

8 case, but I don't -- like, I don't know the 12:53:00

9 technical details of it, no. 12:53:02

10 Q (BY MS. CHANG) Do you know anything about 12:53:03

11 Trade Secret 2? 12:53:04

12 A In -- I -- I mean, I didn't ask -- like, 12:53:07

13 no, I didn't ask detailed questions about Trade 12:53:10

14 Secret 2. 12:53:13

15 Q What do you know about Trade Secret 2, 12:53:14

16 other than that it's [REDACTED] to develop? 12:53:15

17 A That to the extent it is -- take -- how do 12:53:23

18 I say this? 12:53:29

19 That its development was not limited to, 12:53:30

20 a -- like, a discrete point in time. And it -- 12:53:33

21 it -- the formulation of it and the basis for -- 12:53:36

22 thereby the basis of the calculation is that it is 12:53:37

23 the kind of -- from inception to the date of the 12:53:43

24 cutoff of -- whatever informs that cutoff date is 12:53:47

25 how it -- it's informed, right. 12:53:52

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1 So there's a development time. It's not 12:53:52
2 like a discrete thing with, like, a discrete item. 12:53:54
3 It is a totality. And that's why, you know... 12:53:57
4 Q Other than the number, what do you know 12:54:03
5 about the technology that's captured by Trade 12:54:08
6 Secret 2? 12:54:11
7 MR. MACK: Objection, form. 12:54:12
8 A So what I know about technology is that it 12:54:21
9 was developed at Waymo. That would be -- and it was 12:54:23
10 technology that was developed in the program as a 12:54:32
11 whole. 12:54:36
12 Q (BY MS. CHANG) Do you know what aspect of 12:54:36
13 the technology that was developed by Waymo that 12:54:38
14 Trade Secret 2 relates to? 12:54:42
15 MR. MACK: Objection, form. 12:54:44
16 A Well, I think based off of my 12:54:45
17 understanding of how it was calculated, aspect -- 12:54:47
18 aspect is a little -- I guess I would take issue 12:54:51
19 with the word "aspect." Is that -- it -- it's a -- 12:54:55
20 it's a trade secret that is kind of comprehensive in 12:54:58
21 the program as a whole. 12:55:01
22 Like -- but again, that's just a -- like, 12:55:01
23 a nontechnical understanding of, like, how this 12:55:03
24 number was calculated. And I'm kind of deriving it 12:55:06
25 based off of that calculation. 12:55:09

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1 Q (BY MS. CHANG) If you turn to page 172 of 12:55:11
2 Exhibit 1520. 12:55:14
3 A I'm sorry. What page again? 12:55:16
4 Q 172. 12:55:19
5 A Okay. 12:55:20
6 Q This is Waymo's Response to 12:55:36
7 Interrogatory No. 6 with respect to Trade Secret 25. 12:55:39
8 If you look in the middle of the first paragraph, 12:55:43
9 under that header it reads, Information potentially 12:55:48
10 relevant to determining such cost estimates includes 12:55:52
11 information that has been produced at 12:55:55
12 WAYMO-UBER-00027045, WAYMO-UBER-00014506 12:55:58
13 WAYMO-UBER-00012830, WAYMO-UBER-00014078, and 12:56:06
14 WAYMO-UBER-00014489. 12:56:15
15 I can represent to you that those are the 12:56:20
16 same five documents that were cited for Trade 12:56:23
17 Secret 2 that we just looked at. 12:56:26
18 The next sentence reads, That information 12:56:30
19 reflects that costs Waymo necessarily incurred for 12:56:34
20 the development of Trade Secret 25 are in the 12:56:39
21 [REDACTED] 12:56:43
22 What is the basis of the [REDACTED] 12:57:02
23 range number cited for Trade Secret 25 in Waymo's 12:57:05
24 response to Interrogatory No. 6 for Trade Secret 25? 12:57:09
25 A So I -- again, I think my understanding of 12:57:16

1 the sum of Cells B16 to H16 of Exhibit 1400, and 12:58:43
2 that was for Trade Secret 2? 12:58:52
3 A Yeah, the -- the last -- yes, correct. 12:58:54
4 Q And now we're looking at Trade Secret 25, 12:58:56
5 which also cites a [REDACTED] cost? 12:58:59
6 A Um-hum. 12:59:03
7 Q The calculation for that [REDACTED] 12:59:03
8 number, is it also the sum of Cells B16 to H16 of 12:59:06
9 Exhibit 1400? 12:59:12
10 MR. MACK: Objection, form. 12:59:14
11 A Yes, those same numbers inform that 12:59:19
12 number. 12:59:22
13 Q (BY MS. CHANG) Why is it that only the 12:59:23
14 costs incurred in 2009 through 2015 are used to 12:59:28
15 calculate the [REDACTED] cost estimate for Trade 12:59:34
16 Secrets 2 and 25? 12:59:41
17 A Sorry. Why is -- why only those years as 12:59:46
18 opposed to what other years, I guess? 12:59:48
19 Q Why wasn't 2016 included? 12:59:52
20 A Well, my understanding based off of, 12:59:56
21 again, like, the trade secret being a technical 12:59:58
22 thing is that this says it took a period of time. 01:00:00
23 And that secret -- again, not being 01:00:03
24 technically minded about what a trade secret is 01:00:07
25 legally defined as or anything else, it's -- it's 01:00:10

1 formulation took that span of time; and therefore, 01:00:14
2 they're capturing that period of time's expense, 01:00:16
3 therefore. 01:00:22
4 Q Your testimony is that the development of 01:00:23
5 Trade Secret 25 incurred cost only up through 2015? 01:00:27
6 MR. MACK: Objection, form. 01:00:34
7 A My -- my testimony is that that is my 01:00:37
8 understanding of how it was calculated, yes. 01:00:39
9 Q (BY MS. CHANG) The same answer for Trade 01:00:41
10 Secret 2? 01:00:45
11 A Again, like, my under -- my understanding 01:00:48
12 is, like, that's the method the expert used to 01:00:50
13 surmise the -- the data -- the costs incurred based 01:00:55
14 upon historical spend that we -- that I -- that we 01:00:58
15 provided. 01:01:02
16 Q Do you know what the technology, that 01:01:08
17 Trade Secret 25 relates to, is? 01:01:11
18 MR. MACK: Objection, form. 01:01:16
19 A I don't know the specific technology or 01:01:20
20 technological elements that it informs. My 01:01:23
21 understanding is it's -- it's technology that is -- 01:01:27
22 was developed within Waymo Chauffeur -- 01:01:30
23 Q (BY MS. CHANG) Is that -- 01:01:33
24 A -- but that would be the extent of it. 01:01:34
25 Q You don't know any more details regarding 01:01:35

1 Trade Secret 25? 01:01:38

2 A No, I don't have any more details. 01:01:40

3 Q You testified that Trade Secret 2 incurred 01:01:44

4 a [REDACTED] cost for development. You also 01:01:47

5 testified that Trade Secret 25 incurred the same 01:01:52

6 [REDACTED] cost for development. 01:01:57

7 Is there any chance that costs of 01:02:20

8 development is being double counted between Trade 01:02:23

9 Secret 2 and Trade Secret 25? 01:02:26

10 MR. MACK: Objection, form. 01:02:29

11 A So one thing in -- in answering your 01:02:30

12 question, I think you said that my testimony was 01:02:33

13 that it costs [REDACTED] to formulate those two 01:02:36

14 trade secrets. 01:02:40

15 So I just want to say first that, like, 01:02:40

16 that's -- that's not my testimony. What -- what I'm 01:02:41

17 saying is that insofar is that an expert calculated 01:02:43

18 this, it's -- I'm showing the -- my testimony is 01:02:46

19 that in the years 2009 through 2015, those were the 01:02:49

20 expenses incurred. 01:02:54

21 With respect to your -- the -- the core of 01:02:56

22 the question or, like, the latter part of what you 01:02:59

23 just said of: Is there a double count, I don't 01:03:01

24 think I am technically minded enough to say whether 01:03:05

25 that is true or not. 01:03:10

1 Q (BY MS. CHANG) Do you understand that you 01:03:11
2 were designated corporate witness, so you're 01:03:13
3 supposed to do testify on behalf of the company 01:03:16
4 regarding the cost of each of the alleged trade 01:03:19
5 secrets? Are you not prepared to testify as to that 01:03:21
6 today? 01:03:25
7 A So -- so I'm -- I'm prepared to testify. 01:03:26
8 And -- and I have been trying to testify about the 01:03:29
9 numbers and the costs incurred by this program. 01:03:32
10 I am not technically minded to say that a 01:03:37
11 trade secret involved this cost versus that cost. I 01:03:39
12 think that's a more expert-based formulation. 01:03:44
13 And I'm not prepared or capable of -- of 01:03:49
14 creating -- like, I'm not an expert, right. Like, 01:03:52
15 my understanding is you -- you have expert reports 01:03:54
16 on these kinds of things, and there will be a whole, 01:03:56
17 you know, rigmarole around that. 01:03:58
18 But I am prepared to tell you about what 01:04:01
19 are the costs and what we have been discussing about 01:04:01
20 what the expenses that we're showing in these 01:04:04
21 various years. 01:04:07
22 Q If I understand your testimony correctly, 01:04:08
23 you're prepared to testify about the costs incurred 01:04:10
24 by Waymo's self-driving car program, but you are not 01:04:12
25 prepared to testify about the costs of each 01:04:19

1 individual trade secret; is that right? 01:04:22

2 MR. MACK: Objection to form. 01:04:23

3 A So again, insofar as that -- in this 01:04:26

4 interrogatory response there is a response that says 01:04:30

5 the trade secret costs [REDACTED]. I can tell you 01:04:31

6 what numbers inform that. 01:04:36

7 So -- so yes, there's an -- there's an 01:04:37

8 expert conclusion about this, and I can help show 01:04:39

9 you -- like, to the two preceding questions you 01:04:42

10 asked, I showed you how that [REDACTED] was 01:04:45

11 informed. So that extent, I am providing my 01:04:48

12 testimony and the -- the basis for that [REDACTED] 01:04:51

13 calculation. 01:04:54

14 Q (BY MS. CHANG) You know how the number was 01:04:54

15 calculated, but you're not offering any testimony as 01:04:56

16 to how that number relates to each of the trade 01:04:59

17 secrets? 01:05:02

18 MR. MACK: Objection, form. 01:05:02

19 A I don't -- I don't understand what you 01:05:05

20 mean by "how it relates to each of the trade 01:05:06

21 secrets." 01:05:09

22 Q (BY MS. CHANG) You're not providing any 01:05:09

23 testimony that -- for example, where it says, Trade 01:05:11

24 Secret 2 costs [REDACTED], you're not offering 01:05:14

25 that Trade Secret 2 actually costs [REDACTED] 01:05:17

1	you're just offering testimony about how	01:05:19
2	[REDACTED] was calculated?	01:05:22
3	MR. MACK: Objection, form.	01:05:26
4	A Sorry. Sorry. Like, let me -- let me try	01:05:30
5	to -- can -- can you repeat the question? It's kind	01:05:34
6	of long, so I -- I don't want to get lost in it.	01:05:37
7	MS. CHANG: Could you read the question	01:05:40
8	back to the witness?	01:05:41
9	(The Reporter read the record as follows:	01:05:43
10	QUESTION: You're not providing any testimony	01:05:43
11	that -- for example, where it says, Trade Secret 2	01:05:43
12	costs [REDACTED], you're not offering that Trade	01:05:43
13	Secret 2 actually costs [REDACTED]; you're just	01:05:43
14	offering testimony about how [REDACTED] was	01:05:43
15	calculated?)	01:05:43
16	MR. MACK: Same objection.	01:06:15
17	A So my understanding is that -- that these	01:06:17
18	trade secrets are a development over time; and	01:06:21
19	therefore, that -- it takes all of the preceding	01:06:27
20	work.	01:06:30
21	And to the extent that trade secret was	01:06:30
22	formulated from inception of the program through the	01:06:33
23	time period that we marked on that at the end of the	01:06:37
24	year, which it's -- it's now blacked out, but I	01:06:40
25	think it was 2015 or 2016, that is the cost of the	01:06:42

1 trade secret. 01:06:46

2 Q (BY MS. CHANG) You are testifying that -- 01:06:48

3 it is your testimony under oath that Trade Secret 2 01:06:49

4 costs [REDACTED] 01:06:54

5 MR. MACK: Objection, form. 01:06:57

6 A Again, to -- to the extent the expert 01:06:58

7 formulated that and -- and the basis is that all of 01:07:01

8 the work took -- took -- it's all of the preceding 01:07:03

9 work up until that time and that our -- the -- 01:07:06

10 the program's historical spend is that, then -- then 01:07:09

11 yes, consistent with that, [REDACTED] is a correct 01:07:12

12 number. 01:07:16

13 Q (BY MS. CHANG) But you don't know what 01:07:16

14 Trade Secret 2 actually is? 01:07:17

15 MR. MACK: Objection, form. 01:07:19

16 A The -- the discrete technical elements of 01:07:21

17 it, no. 01:07:23

18 Q (BY MS. CHANG) And you don't know what 01:07:25

19 Trade Secret 25 is? 01:07:27

20 MR. MACK: Same objection. 01:07:28

21 A Again, the -- the discrete technical 01:07:29

22 elements of it, no. I -- like, to the extent it was 01:07:32

23 formulated over time and it is -- it is a product of 01:07:34

24 work since the inception of a program, that's -- 01:07:37

25 that's what I understand. 01:07:39

1 Q (BY MS. CHANG) Do you know if there was 01:07:46
2 any chance of double counting between the technology 01:07:47
3 that is claimed in Trade Secret 2 and the technology 01:07:50
4 that is claimed in Trade Secret 25? 01:07:54
5 MR. MACK: Objection to form. 01:07:57
6 A I -- like, what -- what would you consider 01:08:01
7 double counting? 01:08:06
8 Q (BY MS. CHANG) Claiming the claim cost 01:08:13
9 twice. 01:08:15
10 A Between -- between -- so -- so saying the 01:08:16
11 costs of developing one trade secret versus the 01:08:19
12 other are duplicative? 01:08:21
13 Q Yes. 01:08:26
14 A Without -- without understanding the 01:08:27
15 technical elements of -- of the trade secrets, 01:08:29
16 which -- which I admittedly don't understand the 01:08:30
17 technical elements, I -- I don't know that I can 01:08:34
18 answer that. 01:08:35
19 Q How are you able to testify that Trade 01:08:36
20 Secret 25 costs [REDACTED] if you don't understand 01:08:38
21 the technical details that are claimed by Trade 01:08:42
22 Secret 25? 01:08:45
23 MR. MACK: Objection, form. 01:08:46
24 A Again, because -- my understanding is -- 01:08:49
25 is that the trade secret was formulated since the 01:08:50

1 inception of the program. And it is the totality of 01:08:55
2 the technology as whole that -- that allows the 01:08:57
3 system to work. And therefore, all of the expenses 01:09:01
4 that come through that year that we ended on is why 01:09:03
5 that number is right. 01:09:06

6 So it's -- it's the -- the fact that a 01:09:07
7 given trade secret is a part of this entire 01:09:12
8 solution; and therefore, we took the expense of the 01:09:15
9 entire program and took them over a period of time 01:09:17
10 to what is determined as the date where it's, like, 01:09:19
11 formulated or -- not -- like, I don't know how to 01:09:23
12 describe it in whatever might be the applicable 01:09:25
13 term. 01:09:28

14 But that period of time you then take that 01:09:28
15 whole expense of the whole exclusion and say you 01:09:30
16 have now -- it's come to fruition, so to speak or 01:09:33
17 whatever, and that's how you will come up with the 01:09:34
18 [REDACTED] 01:09:37

19 Q (BY MS. CHANG) Your testimony is that 01:09:38
20 Trade Secret 2 costs [REDACTED] to develop; is 01:09:40
21 that right? 01:09:44

22 MR. MACK: Objection, form. 01:09:44

23 A My testimony is that to the extent that 01:09:47
24 the -- the expert has surmised that this is, like, a 01:09:49
25 full-on, like, evolution and it -- all of the steps 01:09:53

1 preceding takes time to create the solution. You 01:09:59
2 take all of that spend, and it's [REDACTED] of 01:10:03
3 spend that occurred during that time. And 01:10:05
4 therefore, that's the way you come up to the 01:10:06
5 [REDACTED] range identified in the interrogatory. 01:10:09
6 Q (BY MS. CHANG) It's your testimony that 01:10:12
7 Trade Secret 25 costs [REDACTED] to develop; is 01:10:14
8 that right? 01:10:17
9 MR. MACK: Same objection. 01:10:18
10 A I -- I would answer that in the same way I 01:10:19
11 did the preceding question. 01:10:22
12 Q (BY MS. CHANG) What is your answer to the 01:10:23
13 question: What was the cost of developing Trade 01:10:24
14 Secret 2 and Trade Secret 25? 01:10:27
15 MR. MACK: Objection, form. 01:10:32
16 A So it -- to -- to -- what was the cost of 01:10:33
17 developing the trade secret? 01:10:38
18 Q (BY MS. CHANG) To clarify, the question 01:10:41
19 is: What was the cost of developing Trade Secret 2 01:10:42
20 and Trade Secret 25? So I want to know the combined 01:10:46
21 cost of developing those two trade secrets. 01:10:51
22 A I -- I don't know that I could answer 01:10:54
23 that, because I don't have, again, the technical 01:10:55
24 element of what the trade secret is. 01:10:57
25 I think that's -- that's something that I 01:10:58

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1 don't know. But to the extent that -- like, if an 01:11:02
2 expert were to help -- like, tell me how you capture 01:11:05
3 those things, and we said: Well, is there, like, 01:11:09
4 this time element, for example, or something of that 01:11:12
5 sort, then I could look at that amount of time or 01:11:15
6 however and then come up with a number. Kind of 01:11:17
7 like what I have been describing in the preceding 01:11:19
8 answers. 01:11:22

9 Q You testified that Trade Secret 2 used the 01:11:22
10 same calculation as Trade Secret 25? 01:11:24

11 MR. MACK: Objection, form. 01:11:30

12 A Like -- so I -- I don't think I used the 01:11:31
13 word "calculation." But again, I think that we said 01:11:34
14 that in a similar manner, like, you took the whole 01:11:37
15 program's spend from inception to the time where 01:11:41
16 that trade secret was -- is determined to have, 01:11:44
17 like, come to fruition or whatever. 01:11:45

18 And you take all of that spend, because 01:11:48
19 these trade secrets are part of an integrated 01:11:51
20 whole -- like, it's a whole solution, right. And 01:11:54
21 that's my understanding of how that determination 01:11:56
22 was made. 01:11:57

23 Q (BY MS. CHANG) But isn't the calculation 01:11:59
24 of Trade Secret 2 based on that analysis, the same 01:12:02
25 way that you're calculating the cost for Trade 01:12:06

1 Secret 25? 01:12:08

2 MR. MACK: Objection, form. 01:12:11

3 Q (BY MS. CHANG) You seem to be implying 01:12:12

4 that the calculation is not the same, so I'm just 01:12:13

5 trying to figure out exactly what your testimony is 01:12:16

6 with respect to the calculations. 01:12:20

7 A Sure. And -- and -- again, like -- like I 01:12:21

8 said earlier -- I think a bit earlier is that -- 01:12:24

9 like, the precise calculation of what informs and 01:12:25

10 costs of the trade secret, I think it requires 01:12:29

11 certain technical elements. 01:12:31

12 But to the extent that it was a 01:12:32

13 time-based, like, evolution of the entire 01:12:35

14 technological solution, to the extent that is what I 01:12:39

15 understand of it, then perhaps it -- then in that 01:12:42

16 vein, yes. But again, I'm not the -- the -- the 01:12:47

17 expert who calculated that number, per se. 01:12:49

18 Q Okay. Stepping back, you keep on 01:12:53

19 mentioning an "expert." Is there a particular 01:12:54

20 expert you're referring to? 01:12:56

21 A I'm assuming who -- whichever expert 01:12:58

22 that -- it says "will be the subject of expert 01:13:01

23 testimony" here in the interrogatory. 01:13:05

24 Q That's true. I believe Waymo's experts 01:13:07

25 will be using this interrogatory response. But 01:13:10

1 I can represent to you that those are the 01:15:09
2 same five documents that were cited for Trade 01:15:12
3 Secret 2 and Trade Secret 25 that we just looked at. 01:15:15
4 The next sentence reads, That information 01:15:18
5 reflects that costs Waymo necessarily incurred for 01:15:23
6 the development of Trade Secret 90 are in the 01:15:27
7 [REDACTED] range. 01:15:31
8 What was the basis for calculating that 01:15:33
9 [REDACTED] cost estimate? 01:15:36
10 A So again, my understanding is that it is a 01:15:41
11 cost that captures the entire program spend from 01:15:43
12 inception to the period of time where it stops -- I 01:15:47
13 think it's 2015, 2016, that [REDACTED] that you round up 01:15:54
14 to [REDACTED] 01:15:59
15 It is informed by those same sets of 01:16:00
16 numbers for the totality of the program spend for 01:16:04
17 that period of time. 01:16:05
18 Q The calculation that was the basis of the 01:16:06
19 [REDACTED] cost estimate for Trade Secret 90 is 01:16:09
20 the same calculation that was done for Trade 01:16:13
21 Secret 2 and Trade Secret 25? 01:16:16
22 MR. MACK: Objection, form. 01:16:18
23 A Again, my understanding being that it 01:16:23
24 covers the -- the time period for the formulation of 01:16:24
25 that trade secret, without knowing the technical 01:16:27

1 elements of it, is -- is a time period that spans 01:16:29
2 the program's total spend of [REDACTED] 01:16:32
3 Q (BY MS. CHANG) And that calculation is the 01:16:36
4 sum of Cells B16 to H16 in Exhibit 1400? 01:16:40
5 A I'll -- I'll accept that. I don't see it 01:16:50
6 on the screen, but I believe so. It's -- it's the 01:16:52
7 cells that I had highlighted earlier. 01:16:53
8 Q And that's the same [REDACTED] 01:16:58
9 A Correct. 01:17:02
10 Q [REDACTED] number that we have been 01:17:02
11 looking at? 01:17:05
12 A Correct. 01:17:05
13 Q Do you know what -- the technical aspects 01:17:10
14 that is claimed by Trade Secret 90? 01:17:20
15 MR. MACK: Objection, form. 01:17:24
16 A I'm not familiar with the -- the precise 01:17:25
17 individual technical aspects of -- or sorry. Let me 01:17:29
18 rephrase. 01:17:31
19 I'm not -- I'm not familiar with the -- 01:17:31
20 the technical aspects of the individual trade 01:17:33
21 secret. My understanding is that insofar as it is 01:17:38
22 part of the entirety of this self-driving system. 01:17:42
23 Therefore, all of the costs of the program since 01:17:45
24 inception to the time are what then informs that 01:17:48
25 [REDACTED] number. 01:17:52

1 Q (BY MS. CHANG) If I understand your 01:17:54
2 testimony correctly, the costs of the program from 01:17:56
3 inception to 2015 forms the basis for the 01:18:05
4 development cost for Trade Secret 2, Trade 01:18:12
5 Secret 25, and Trade Secret 90; is that correct? 01:18:15
6 MR. MACK: Objection, form. 01:18:20
7 A Can I get the question read back? 01:18:24
8 Q (BY MS. CHANG) If I understand your 01:18:28
9 testimony correctly, the costs of the self-driving 01:18:29
10 car program from inception to 2015 forms the basis 01:18:32
11 for the development cost for Trade Secret 2, Trade 01:18:36
12 Secret 25, and -- and now Trade Secret 90? 01:18:39
13 MR. MACK: Same objection. 01:18:45
14 A I -- I believe so, yes, if I understand 01:18:48
15 your question. 01:18:52
16 Q (BY MS. CHANG) Is there a part of the 01:18:54
17 question that you don't understand? 01:18:55
18 A So -- sorry. Can -- can you read it back 01:18:57
19 one more time? I apologize. 01:19:01
20 Q Your testimony is that the costs of the 01:19:03
21 self-driving car program from inception to 2015 01:19:08
22 forms the basis for the development costs of Trade 01:19:12
23 Secret 2, Trade Secret 25, and now Trade Secret 90? 01:19:16
24 A My understanding is that -- that since 01:19:23
25 inception through the year that you just identified 01:19:25

1 informs the [REDACTED] number that was placed into 01:19:27
2 this interrogatory. 01:19:31
3 Q For each of those three trade secrets that 01:19:32
4 we have discussed so far? 01:19:34
5 A Correct. That period of spend is what 01:19:36
6 informed that number. And if I may add. The one 01:19:38
7 thing, like -- and we had reviewed this a little bit 01:19:41
8 earlier in the deposition. Is that -- to the extent 01:19:43
9 that there are historical expenses not captured, 01:19:45
10 that number is potentially higher. 01:19:47
11 But because of the way the Alphabet 01:19:50
12 structure was run historically, et cetera, 01:19:52
13 et cetera, that number is -- is reported lower in 01:19:54
14 the Exhibit 1400, I think, is the one that -- that's 01:20:00
15 the spreadsheet so... 01:20:04
16 Q To clarify, you're saying that the 01:20:12
17 number -- the [REDACTED] number that's shown in 01:20:14
18 Exhibit 1400 is actually lower than the actual spend 01:20:20
19 of the program from inception to 2015? 01:20:23
20 A Correct. Correct. As I mentioned 01:20:25
21 earlier, there are -- there are equity that's 01:20:26
22 missing from this, as well as, like, the 01:20:28
23 intracompany expenses of the allocated expensive. 01:20:30
24 Because, again, alphabetization, which is that 01:20:33
25 spinout, was something that happened later. 01:20:36

1 Q What is the cost of developing Trade 01:20:40
2 Secret 2, Trade Secret 25, and Trade Secret 90? 01:20:42
3 MR. MACK: Objection, form. 01:20:46
4 A So to the extent that the expert has 01:20:48
5 surmised that development of that trade secret is 01:20:55
6 something that is kind of program inception to the 01:20:58
7 date that, again, this comes to, like, fruition or 01:21:02
8 whatever you want to call it, it -- it is that 01:21:04
9 1 point -- it is the spend for the entirety of the 01:21:08
10 program from that inception to the date that that's 01:21:11
11 cut off at, which is 2015 or '16, based on the 01:21:14
12 spreadsheet. 01:21:19
13 Q (BY MS. CHANG) Given that the entirety of 01:21:19
14 the program cost from inception to 2015 is about 01:21:21
15 [REDACTED] would it be fair to say that the costs 01:21:28
16 of developing Trade Secret 2 is the same as the cost 01:21:31
17 of developing Trade Secrets 2, 25, and 90 together? 01:21:35
18 MR. MACK: Objection, form. 01:21:40
19 A You're asking: Is -- is the cost of 01:21:43
20 developing -- is the cost of developing one, the 01:21:45
21 same as the cost of developing all of them? 01:21:49
22 Q (BY MS. CHANG) All three of them that we 01:21:53
23 just discussed. 01:21:54
24 A I -- like, I don't know that I understand? 01:21:56
25 Like, is the cost the same? I mean, I guess my 01:22:08

1 answer would be that -- that they're all 01:22:20
2 wholly-integrated solutions in the system. And 01:22:24
3 like, this is (inaudible), like, a self-driving 01:22:26
4 system, so -- 01:22:26
5 THE COURT REPORTER: What is that? This 01:22:34
6 is? 01:22:34
7 A Sorry? 01:22:35
8 THE COURT REPORTER: They're 01:22:35
9 wholly-integrated solutions in the system. And 01:22:35
10 like? 01:22:35
11 A They're all wholly-integrated solutions in 01:22:35
12 the same system is what I meant to say. That -- 01:22:38
13 sorry. I lost my train of thought. 01:22:48
14 Q (BY MS. CHANG) You're the corporate -- 01:22:52
15 A Yeah. 01:22:55
16 Q -- representative on the cost of each of 01:22:55
17 the trade secrets? 01:22:56
18 A Right. 01:22:58
19 Q And I'm just trying to figure out how this 01:22:58
20 cost calculation works. You're testifying that 01:23:01
21 Trade Secret 2 costs [REDACTED], which is the 01:23:05
22 entire program cost from inception to 2015. 01:23:09
23 You're testifying that Trade Secret 25 01:23:13
24 costs [REDACTED] which is also the cost of the 01:23:16
25 entire program from inception to 2015. 01:23:23

1 And you're also claiming that Trade 01:23:25
2 Secret 90 costs [REDACTED], which is the cost of 01:23:27
3 the entire program from inception to 2015. 01:23:34
4 Because you're claiming the entire program 01:23:39
5 cost for each of these trade secrets, I want to 01:23:42
6 understand that if it's your testimony that the cost 01:23:47
7 of developing all three trade secrets is also the 01:23:50
8 entire cost of the program from inception to 2015. 01:23:53
9 MR. MACK: Objection, form; beyond the 01:23:58
10 scope. 01:23:59
11 A I -- I don't know that I know how to 01:24:01
12 answer that. Because, again, like, given they all 01:24:04
13 have an interplay and -- and are all required, I -- 01:24:07
14 I don't think I -- I -- I have the technical 01:24:11
15 know-how to -- to -- to answer, like, if you 01:24:13
16 developed one wholly independently versus all of the 01:24:16
17 others, what would the costs be. 01:24:19
18 Q (BY MS. CHANG) That's not my question. 01:24:23
19 A I'm sorry. All right. I'm just having a 01:24:26
20 hard understanding -- 01:24:28
21 Q Yeah. 01:24:29
22 A -- to be honest. 01:24:29
23 Q Well -- so maybe -- I think there are two 01:24:30
24 potential answers to this question, and there could 01:24:36
25 also be an alternate answer. One potential answer 01:24:38

1 is because I'm already claiming the entire cost of 01:24:44
2 the program for -- for one of the trade secrets, 01:24:48
3 there's not more that I could claim for developing 01:24:50
4 all three. 01:24:53

5 Or you could say because I'm claiming 01:24:53
6 [REDACTED] for one trade secret, [REDACTED] for 01:24:58
7 another trade secret, and [REDACTED] for a third 01:25:02
8 trade secret, that the cost of developing all three 01:25:07
9 of those would be [REDACTED] even though that 01:25:09
10 exceeds the costs of the entire program. 01:25:12

11 I just want to know what your testimony 01:25:17
12 is. I -- if I wanted to figure out what is the cost 01:25:18
13 of developing three of these trade secrets that are 01:25:22
14 still at issue in this case, is it just -- 01:25:25

15 A Can -- I'm sorry. I'm sorry. Like, I 01:25:28
16 want -- I want -- I want to make sure I understand. 01:25:29
17 Could I -- could I restate it back to you so that, 01:25:30
18 like -- like, you're essentially posing a 01:25:33
19 hypothetical of: If you developed only one of these 01:25:36
20 trade secrets, how much would it cost versus if you 01:25:38
21 developed all three at the same time? 01:25:41

22 Q It's not a hypothetical, because Waymo has 01:25:42
23 responded that developing one trade secret costs 01:25:45
24 [REDACTED] 01:25:48

25 A Right. 01:25:49

1 Q That's not a hypothetical. That's Waymo's 01:25:50
2 response. 01:25:52
3 A Sure. 01:25:52
4 Q And you're Waymo's corporate 01:25:53
5 representative to give that testimony. 01:25:54
6 A Right. 01:25:56
7 Q My question is: Is the cost the same for 01:25:58
8 all three trade secrets -- if -- if I -- is the cost 01:26:01
9 of developing Trade Secret 2 the same as the cost of 01:26:08
10 developing Trade Secrets 2, 25, and 90? 01:26:11
11 MR. MACK: Objection, form; beyond the 01:26:14
12 scope. 01:26:15
13 A Again, to the extent they're identified as 01:26:16
14 the same number, then this is -- like, between the 01:26:19
15 responses for the individual trade secrets, the same 01:26:23
16 number is identified. Like, that's in -- in the 01:26:26
17 answer. So I -- 01:26:28
18 Q (BY MS. CHANG) I understand. 01:26:29
19 A -- don't know what else you're asking me 01:26:30
20 add to that. 01:26:33
21 Q So for each -- you have -- you have 01:26:34
22 identified a cost for each one -- for each trade 01:26:34
23 secret; is that correct? 01:26:37
24 A Right. They're -- in -- in the Responses 01:26:39
25 to Interrogatories, there's a cost identified for 01:26:40

1 each one. 01:26:42

2 Q These three trade secrets that we have 01:26:46

3 been looking at each claim the cost of the entirety 01:26:48

4 of the program? 01:26:51

5 A Correct, for a period of time. 01:26:53

6 Q That's right. 01:26:59

7 A Yeah. 01:27:00

8 Q If I ask you: What is the cost for 01:27:12

9 developing all three of these trade secrets, what is 01:27:13

10 your response? 01:27:16

11 MR. MACK: Objection, form; beyond the 01:27:17

12 scope. 01:27:19

13 A I mean, I don't -- I don't think I have 01:27:22

14 the, like, technical understanding to say how the 01:27:23

15 cost of developing all three are. 01:27:28

16 Q (BY MS. CHANG) Is it potentially more than 01:27:30

17 [REDACTED] 01:27:32

18 MR. MACK: Same objections. 01:27:34

19 A I -- I don't know that I can -- I know how 01:27:36

20 to answer that. Like, you're asking for a potential 01:27:37

21 cost of something, and I -- like, I don't know, 01:27:43

22 potentially. 01:27:45

23 Q (BY MS. CHANG) Well, you're saying you're 01:27:45

24 not sure what the answer is -- 01:27:48

25 A Yeah. 01:27:49

1 Q -- so I'm trying to figure out whether you 01:27:49
2 think the answer could be more than the entire cost 01:27:50
3 of the self-driving car program or your uncertainty 01:27:53
4 lies in the fact that it could be less. 01:27:56

5 MR. MACK: Same objections. 01:28:00

6 A So -- like, the -- the way that the 01:28:01
7 answer -- so the answer is -- is that formulation of 01:28:08
8 -- of this trade secret and then separately that 01:28:11
9 other trade secret, essentially each of them are 01:28:13
10 [REDACTED], right. They're part of this entire 01:28:15
11 technological package. 01:28:19

12 When -- when you're asking: Could it be 01:28:19
13 less, could it be more, like, to me it sounds like 01:28:21
14 you're -- you're asking: Well, what if you did a -- 01:28:25
15 like, a -- like, Waymo decided to do only one trade 01:28:27
16 secret or -- versus some other ones. And I just 01:28:30
17 don't know how to answer that, again, because I 01:28:32
18 don't know the very precise technical elements. 01:28:34

19 And I know that to the extent that this 01:28:36
20 response was formulated based on an inception to a 01:28:37
21 certain date, I can tell you that those -- entirety 01:28:40
22 of the program expenses are what are in that number, 01:28:44
23 et cetera. 01:28:47

24 If -- if I -- if I was an expert, which 01:28:47
25 I'm not, maybe I could answer about: Could the 01:28:51

1 expenses be less, more, or whatever in some other 01:28:54
2 scenario. 01:28:57
3 Q (BY MS. CHANG) I'm not asking you a 01:28:57
4 hypothetical. I'm asking you as Waymo's corporate 01:28:59
5 representative on the costs of developing each of 01:29:02
6 the trade secrets, is the cost of developing Trade 01:29:04
7 Secret 2 the same as the cost of developing Trade 01:29:07
8 Secrets 2, 25 and 90? 01:29:11
9 MR. MACK: Same objections. 01:29:15
10 A And again, if -- the interrogatories 01:29:16
11 identify them as the same number cost, yes. 01:29:17
12 Q (BY MS. CHANG) Moving on to Trade 01:29:23
13 Secret 96. Waymo's Response to Interrogatory No. 6 01:29:25
14 with respect to Trade Secret 96 is listed on 01:29:35
15 page 130. 01:29:38
16 In the middle of the first paragraph, it 01:29:39
17 reads, Information potentially relevant to 01:29:41
18 determining such cost estimates has been produced at 01:29:45
19 WAYMO-UBER-000274 -- excuse me -- 00027045 01:29:48
20 WAYMO-UBER-00014506, WAYMO-UBER-00012830, 01:29:57
21 WAYMO-UBER-00014078, and WAYMO-UBER-00014489. 01:30:06
22 I can represent to you that those are the 01:30:12
23 same five documents that are cited in the responses 01:30:18
24 to Trade Secrets 2, 25, and 90 that we have just 01:30:22
25 looked at. 01:30:26

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1 The next sentence reads, That information 01:30:27
2 reflects that costs Waymo necessarily incurred for 01:30:31
3 the development of Trade Secret 96 are in the 01:30:34
4 [REDACTED] range. 01:30:39
5 Do you know how that [REDACTED] 01:30:41
6 development cost estimate was calculated? 01:30:43
7 A So my understanding is that it is -- 01:30:48
8 represents the entirety of the program spend from 01:30:49
9 2009 at the inception of the program through 2015 on 01:30:53
10 that spreadsheet that we were looking at. 01:30:57
11 Q The calculation for Trade Secret 96 of 01:31:01
12 [REDACTED] is the same calculation as that used 01:31:05
13 for Trade Secret 2 and Trade Secret 25 and Trade 01:31:08
14 Secret 90? 01:31:11
15 MR. MACK: Objection, form. 01:31:13
16 A It -- the calculation is the same insofar 01:31:14
17 as it captures the same set of numbers. 01:31:17
18 MS. CHANG: We have been going about an 01:31:56
19 hour. Do you want to take a break or we can also go 01:31:57
20 -- 01:31:59
21 A Sure. 01:32:00
22 MS. CHANG: -- on? 01:32:00
23 MR. MACK: Sure, we can take a short 01:32:01
24 break. 01:32:02
25 THE VIDEOGRAPHER: We are off the record 01:32:03

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1 pointed out in -- in the data that we have provided 02:33:58
2 in Exhibit -- Exhibit 1400. 02:34:01
3 Q (BY MS. CHANG) To clarify, I asked about 02:34:03
4 when development of each of the trade secrets was 02:34:05
5 completed. 02:34:09
6 A Right. And -- and what I'm saying is to 02:34:10
7 the extent that I understand what informed the 02:34:12
8 number, that would be how I would understand that to 02:34:14
9 be true -- an ending would have occurred. Like, it 02:34:18
10 would have been complete -- formulation would be 02:34:22
11 complete. 02:34:26
12 Q Your understanding of when each of the 02:34:28
13 trade secrets completed development coincides with 02:34:30
14 the end period used to form the basis of the 02:34:36
15 calculation for the development cost? 02:34:44
16 MR. MACK: Objection, form; beyond the 02:34:48
17 scope. 02:34:48
18 A That would be my nontechnical 02:34:49
19 understanding. 02:34:52
20 Q (BY MS. CHANG) As an example, Trade 02:34:52
21 Secret 2 claims a development cost of [REDACTED] 02:34:54
22 which you testified was based on the entire program 02:35:01
23 spend for Waymo's self-driving system from inception 02:35:06
24 to 2015. 02:35:10
25 Based on that calculation, your 02:35:13

1 understanding is that Trade Secret 2 completed its 02:35:20

2 development in December 2015; is that right? 02:35:23

3 MR. MACK: Objection, form; beyond the 02:35:27

4 scope. 02:35:27

5 A That would be my nontechnical 02:35:29

6 understanding. 02:35:32

7 Q (BY MS. CHANG) I'm handing you what was 02:35:38

8 previously marked as Exhibit 1079. Exhibit 1079 is 02:35:40

9 Exhibit 1 to the Declaration of Jordan Jaffe in 02:36:11

10 support of Waymo's Motion for Preliminary 02:36:19

11 Injunction. I can represent that to you. 02:36:21

12 If you turn to the second page, this 02:36:26

13 document is identified as "Plaintiff's List of 02:36:31

14 Asserted Trade Secrets Pursuant to California Code 02:36:34

15 Civil Procedure Section 2019.210. 02:36:39

16 Do you recognize this document? 02:36:43

17 A No. 02:36:48

18 Q You have never seen this document before? 02:36:48

19 A No. 02:36:50

20 Q If you turn to page 2 of Exhibit 1079, it 02:37:25

21 reads, [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

02:37:50

1 I, MARY J. GOFF, CSR No. 13427, Certified
2 Shorthand Reporter of the State of California,
3 certify;

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth, at
6 which time the witness declared under penalty of
7 perjury; that the testimony of the witness and all
8 objections made at the time of the examination were
9 recorded stenographically by me and were thereafter
10 transcribed under my direction and supervision; that
11 the foregoing is a full, true, and correct
12 transcript of my shorthand notes so taken and of the
13 testimony so given;

14 That before completion of the deposition,
15 review of the transcript () was (xx) was not
16 requested: () that the witness has failed or
17 refused to approve the transcript.

18 I further certify that I am not financially
19 interested in the action, and I am not a relative or
20 employee of any attorney of the parties, nor of any
21 of the parties.

22 I declare under penalty of perjury under the
23 laws of California that the foregoing is true and
24 correct, dated this 25th day of August 2017.

25 

MARY J. GOFF, CSR No. 13427